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OFFICE OF PETITIONS

In re Application of :
Stephen W. Wegerich et al :
Application No. 09/784,158 : DECISION ON PETITION
Filed: February 16, 2001 :
Attorney Docket No. 7060/70479 :

This is a decision on the petition, filed April 3, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed January 18, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 17, 2007.

Petitioner asserts that the Office action dated January 18, 2006 was not received because the action was mailed to an incorrect address. In this regard, petitioner states that a revocation and power of attorney was filed on May 31, 2005, which was never processed by the USPTO. In support of non-receipt of the January 18, 2006 Office action, petitioner has supplied a copy of his docket record where the non-received Office action would have been entered had it been received and docketed.

A review of the written record indicates that the Office received a revocation and power of attorney to the attorneys associated with Customer Number 22242 on May 31, 2005. Unfortunately, however, the Office did not process this document, resulting in the mailing of the January 18, 2006 Office action to an incorrect address. Accordingly, it would be appropriate here to withdraw the holding of abandonment based on the failure of the Office to properly mail the January 18, 2006 Office action to the address directed by the May 31, 2005 power of attorney.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

An acceptance of the revocation and power of attorney filed on May 31, 2005 has been mailed under separate cover on November 6, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time fee submitted with the petition on April 3, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Additionally, in view of the treatment of this petition as one filed pursuant to the provisions of 37 CFR 1.181(a), the \$1,500 petition fee submitted will likewise be credited to petitioner's deposit account.

This application is being referred to the Technology Center AU 2123 for appropriate action on the reply received April 3, 2007 to the non-final Office action of January 18, 2006.



Frances Hicks
Petitions Examiner
Office of Petitions